
TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Proposed Rule
LSA Document #12-550

DIGEST

Adds [405 IAC 5-2-13.1](#), [405 IAC 5-2-13.2](#), [405 IAC 5-2-13.3](#), and [405 IAC 5-2-26](#) to include definitions for individualized education program (IEP), IEP nursing services, IEP transportation services, and school corporation. Amends [405 IAC 5-2-21](#) to correct the cite in the definition in of provider. Amends [405 IAC 5-3-12](#) to include exception for IEP related services to the prior authorization requirements. Amends [405 IAC 5-4-2](#) to allow for school corporations to provide transportation services for students with individualized education programs. Amends [405 IAC 5-22-2](#) to allow and set forth requirements for Medicaid reimbursement of nursing services provided by a public school corporation for students with individualized education programs. Adds [405 IAC 5-30-11](#) to set forth requirements for Medicaid reimbursement of transportation services provided by a public school corporation. Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[405 IAC 5-2-13.1](#); [405 IAC 5-2-13.2](#); [405 IAC 5-2-13.3](#); [405 IAC 5-2-21](#); [405 IAC 5-2-26](#); [405 IAC 5-3-12](#); [405 IAC 5-4-2](#); [405 IAC 5-22-2](#); [405 IAC 5-30-11](#)

SECTION 1. [405 IAC 5-2-13.1](#) IS ADDED TO READ AS FOLLOWS:

[405 IAC 5-2-13.1](#) "IEP" defined

Authority: [IC 12-15](#)

Affected: [IC 12-13-7-3](#); [IC 20-18-2-9](#)

Sec. 13.1. "IEP" means individualized education program and has the meaning set forth in [IC 20-18-2-9](#).

(Office of the Secretary of Family and Social Services; [405 IAC 5-2-13.1](#))

SECTION 2. [405 IAC 5-2-13.2](#) IS ADDED TO READ AS FOLLOWS:

[405 IAC 5-2-13.2](#) "IEP nursing services" defined

Authority: [IC 12-15](#)

Affected: [IC 12-13-7-3](#)

Sec. 13.2. "IEP nursing services" means medically necessary services provided by a registered nurse who is employed by or under contract with a Medicaid participating school corporation for a Medicaid recipient pursuant to his or her IEP.

(Office of the Secretary of Family and Social Services; [405 IAC 5-2-13.2](#))

SECTION 3. [405 IAC 5-2-13.3](#) IS ADDED TO READ AS FOLLOWS:

[405 IAC 5-2-13.3](#) "IEP transportation services" defined

Authority: [IC 12-15](#)

Affected: [IC 12-13-7-3](#)

Sec. 13.3. "IEP transportation services" means:

- (1) a trip from home to school and the return trip on a day when the student receives another Medicaid covered IEP service other than transportation; or**
- (2) from school or home to an off-site Medicaid service provider for an IEP covered service and the**

return trip.

The term also includes transportation of a student who resides in an area that does not have school bus service when that student's IEP stipulates a medical need for transportation.

(Office of the Secretary of Family and Social Services; [405 IAC 5-2-13.3](#))

SECTION 4. [405 IAC 5-2-21](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 5-2-21](#) "Provider" defined

Authority: [IC 12-15](#)

Affected: [IC 12-13-7-3](#)

Sec. 21. "Provider" means an individual, state or local agency, or corporate or business entity that meets the requirements of [405 IAC 5-5](#); [405 IAC 5-4](#).

(Office of the Secretary of Family and Social Services; [405 IAC 5-2-21](#); filed Jul 25, 1997, 4:00 p.m.: 20 IR 3302; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; readopted filed Sep 19, 2007, 12:16 p.m.: [20071010-IR-405070311RFA](#))

SECTION 5. [405 IAC 5-2-26](#) IS ADDED TO READ AS FOLLOWS:

[405 IAC 5-2-26](#) "School corporation" defined

Authority: [IC 12-15](#)

Affected: [IC 12-13-7-3](#); [IC 20-18-2-16](#)

Sec. 26. "School corporation" has the meaning set forth in [IC 20-18-2-16](#).

(Office of the Secretary of Family and Social Services; [405 IAC 5-2-26](#))

SECTION 6. [405 IAC 5-3-12](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 5-3-12](#) Prior authorization; exceptions

Authority: [IC 12-15](#)

Affected: [IC 12-15-30-1](#)

Sec. 12. Notwithstanding any other provision of this rule, prior review and authorization by the office is not required under the following circumstances:

(1) When a service is provided to a Medicaid recipient as an emergency service, "emergency service" means a service provided after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity that the absence of immediate medical attention could reasonably be expected to result in:

- (A) placing the patient's health in serious jeopardy;
- (B) serious impairment to bodily functions; or
- (C) serious dysfunction of any bodily organ or part.

(2) When a recipient's physician determines that an inpatient hospital setting is no longer necessary, but that Medicaid covered services should continue after the recipient is discharged from inpatient hospital care, such services may continue for a period not to exceed one hundred twenty (120) hours within thirty (30) calendar days of discharge without prior review and authorization, if the physician has specifically ordered such services in writing upon discharge from the hospital. Services provided under this section are subject to all appropriate limitations set out in this rule. This exemption does not apply to durable medical equipment, neuropsychological and psychological testing, or out-of-state medical services. Prior review and authorization by the office must be obtained for reimbursement beyond the one hundred twenty (120) hours within thirty (30) calendar days of discharge period. Physical, speech, respiratory, and occupational therapies may continue for a period not to exceed thirty (30) hours, sessions, or visits in thirty (30) calendar days without prior approval if the physician has specifically ordered such services in writing upon discharge or transfer from the hospital. Prior review and authorization by the office must be obtained for reimbursement beyond the thirty (30) hours,

sessions, or visits in the thirty (30) calendar day period for physical, speech, respiratory, and occupational therapies.

(3) The IEP serves as the prior authorization for IEP nursing services and IEP transportation services when provided by a Medicaid participating school corporation in accordance with [405 IAC 5-22-2](#) and [405 IAC 5-30-11](#). No additional prior authorization is required.

(Office of the Secretary of Family and Social Services; [405 IAC 5-3-12](#); filed Jul 25, 1997, 4:00 p.m.: 20 IR 3305; filed Sep 27, 1999, 8:55 a.m.: 23 IR 309; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; filed Aug 28, 2001, 9:56 a.m.: 25 IR 60; readopted filed Sep 19, 2007, 12:16 p.m.: [20071010-IR-405070311RFA](#))

SECTION 7. [405 IAC 5-4-2](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 5-4-2](#) Provider agreement requirements for transportation services

Authority: [IC 12-15](#)

Affected: [IC 12-13-7-3](#); [IC 20-27](#)

Sec. 2. (a) The office will enter into a Medicaid transportation provider agreement only with a distinct transportation business entity ~~which~~ **that** makes transportation services available to the general public and whose primary business function is the provision of transportation services. This requirement does not apply to transportation providers who provide only ambulance, ~~or~~ family member transportation services, **or school corporations**. All providers must complete an Indiana Medicaid provider agreement. In addition, providers must satisfy the specific requirements in this section.

(b) With respect to ambulance service, in accordance with [IC 16-1-39](#) [[IC 16-1](#) was repealed by P.L.2-1993, SECTION 209, effective April 20, 1993.], vehicles and staff that provide emergency services must be certified by the emergency medical services commission to be eligible for Medicaid reimbursement for transports involving either advanced life support or basic life support services that are emergency in nature. Failure to maintain the emergency medical services commission certification on all vehicles involved in transporting Medicaid recipients will result in termination of the Medicaid provider agreement.

(c) Common transportation carriers except for taxicab and not-for-profit transportation entities, in order to be eligible to participate as providers, must continuously comply with all state statutes, rules, and local ordinances governing public transportation. In addition, each provider applicant or enrolled provider must submit proof of, and maintain throughout its period of participation, the following:

- (1) Certification by the Indiana motor carrier authority.
- (2) Insurance coverage as required by the Indiana motor carrier authority.
- (3) Appropriate and valid drivers' licenses for all drivers.

(d) Taxicab transportation entities, in order to be eligible to participate as providers, must continuously comply with all federal and state statutes, rules, and local ordinances governing their operation. In addition, each provider applicant or enrolled provider must submit proof of and maintain throughout its period of participation the following:

- (1) Written ~~acknowledgement~~ **acknowledgment** by local or county officials of whether there are existing ordinances governing taxi services and written verification from local or county officials that taxicab services operating in the local vicinity are in compliance with those ordinances.
- (2) Livery insurance as indicated by existing local ordinances, or in the absence of such ordinances, a minimum of twenty-five thousand dollars/fifty thousand dollars (\$25,000/\$50,000) public livery insurance covering all vehicles used in the business.
- (3) Appropriate and valid drivers' licenses for all drivers.

(e) Not-for-profit transportation entities, in order to be eligible as providers, must continuously comply with all federal and state statutes, rules, and local ordinances governing their operation. In addition, each provider applicant or enrolled provider must submit proof of, and maintain throughout its period of participation, the following:

- (1) An ~~acknowledgement~~ **acknowledgment** from state or federal officials of their status as a not-for-profit entity.
- (2) A minimum of five hundred thousand dollars (\$500,000) of combined single limit commercial automobile

liability insurance.

(3) Appropriate and valid drivers' licenses for all drivers.

(f) IEP transportation services provided in accordance with [405 IAC 5-30-11](#) must conform to the requirements set out in [IC 20-27](#) and are exempt from the transportation provider agreement requirements set out in this section.

(Office of the Secretary of Family and Social Services; [405 IAC 5-4-2](#); filed Jul 25, 1997, 4:00 p.m.: 20 IR 3307; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; readopted filed Sep 19, 2007, 12:16 p.m.: [20071010-IR-405070311RFA](#))

SECTION 8. [405 IAC 5-22-2](#) IS AMENDED TO READ AS FOLLOWS:

[405 IAC 5-22-2](#) Nursing services; prior authorization requirements

Authority: [IC 12-15](#)

Affected: [IC 12-13-7-3](#)

Sec. 2. (a) Medicaid reimbursement is available for services rendered by registered nurses, licensed practical nurses, and home health agencies who are Medicaid providers, subject to the following:

(1) Prior authorization is required for all nursing services, except services ordered in writing by a physician prior to the recipient's discharge from an inpatient hospital, which may continue for a period not to exceed one hundred twenty (120) units within thirty (30) days of discharge without prior authorization **and except as noted in subsection (c).** Prior authorization requests may be submitted by an authorized representative of the home health agency. The prior authorization form must contain the information specified in [405 IAC 5-3-5](#). In addition, the following information must be submitted with the prior authorization request form:

(A) A copy of the written plan of treatment, signed by the attending physician.

(B) An estimate of the costs for the requested services as ordered by the physician and as set out in the written plan of treatment. The cost estimate must be provided on or with the plan of treatment and signed by the attending physician.

(2) Prior authorization shall include consideration of the following:

(A) Written order of a physician.

(B) Services must be provided according to a plan of treatment developed in coordination with the attending physician.

(C) The attending physician must review the plan of treatment every sixty (60) days and reorder the service if medically reasonable and necessary.

(D) Written evidence of physician involvement and personal patient evaluation will be required to document the acute medical needs. A current plan of treatment and progress notes, as to the necessity and effectiveness of nursing services, must be attached to the prior authorization request and available for postpayment audit purposes.

(E) Additional hours of nursing service may be authorized for ventilator dependent patients who have a developed plan of home health care providing it is cost effective and prevents repeated or prolonged stays in an acute care facility.

(b) Reimbursement is not available for care provided by family members or other individuals residing with the recipient.

(c) Medicaid reimbursement is available for IEP nursing services when the services are medically necessary, consistent with the definition set forth in [405 IAC 5-2-13.2](#), and provided pursuant to a Medicaid enrolled student's IEP.

(1) The IEP is the prior authorization for IEP nursing services, when provided by a Medicaid participating school corporation.

(2) The school corporation must bill for the appropriate start and stop time or times of IEP nursing services.

(A) Documentation of IEP nursing services must include the start and stop time or times for each IEP nursing service provided per date of service.

(B) Documentation of IEP nursing services provided off-site or during a school field trip must include the place of service and a description of the beginning and ending date or dates and time or

times of the school field trip.

(3) The Medicaid enrolled student's IEP must:

- (A) specifically authorize the Medicaid covered IEP nursing service; and
- (B) demonstrate there is a medical need for the IEP nursing service.

(4) The reimbursement rate will be set by the office.

(Office of the Secretary of Family and Social Services; [405 IAC 5-22-2](#); filed Jul 25, 1997, 4:00 p.m.: 20 IR 3338; filed Sep 27, 1999, 8:55 a.m.: 23 IR 317; readopted filed Jun 27, 2001, 9:40 a.m.: 24 IR 3822; readopted filed Sep 19, 2007, 12:16 p.m.: [20071010-IR-405070311RFA](#))

SECTION 9. [405 IAC 5-30-11](#) IS ADDED TO READ AS FOLLOWS:

[405 IAC 5-30-11](#) IEP transportation services

Authority: [IC 12-15](#)

Affected: [IC 12-13-7-3](#); [IC 20-27](#)

Sec. 11. Medicaid reimbursement is available for IEP transportation services subject to the following limitations:

- (1) Services are consistent with the definition set forth in [405 IAC 5-2-13.3](#).
- (2) IEP transportation services must be listed in a Medicaid enrolled student's IEP and must be necessary to enable the student to receive other Medicaid covered services listed in the student's IEP.
- (3) IEP transportation services:
 - (A) must be rendered by school corporation personnel or their contractor; and
 - (B) are not covered when provided by a member of the student's family if the person is not an employee of the school corporation.
- (4) IEP transportation service must be provided using a type of vehicle that is appropriate for the student's disability and meets the specifications established in:
 - (A) [575 IAC 1-1-1\(a\)](#) through [575 IAC 1-1-1\(h\)](#);
 - (B) [575 IAC 1-5](#); or
 - (C) [575 IAC 1-5.5](#).
- (5) Additional reimbursement is available for an attendant, subject to the limitations in [405 IAC 5-30-8\(1\)](#) and [405 IAC 5-30-8\(2\)](#), provided the student's IEP includes the need for an attendant and all other Medicaid requirements are met.
- (6) Documentation for IEP transportation service claims, such as an ongoing trip log maintained by the provider of the transportation, must be maintained for audit purposes.
- (7) Reimbursement is available for IEP transportation services subject to the requirements set forth in this rule and when provided in accordance with provider communications, including banners, bulletins, provider manuals, and the provider agreement.
- (8) School corporations are exempt from the transportation provider requirements set out in [405 IAC 5-4-2](#), when transportation services provided are in conformance with this rule and [IC 20-27](#).

(Office of the Secretary of Family and Social Services; [405 IAC 5-30-11](#))

[Notice of Public Hearing](#)

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